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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,864	01/16/2001	Mika Partain	2271/63926	4206
<div>7590 01/26/2009</div> <div>Ivan S. Kavrukov Cooper & Dunham LLP 1185 Avenue of the Americas New York, NY 10036</div> <div>EXAMINER MISIASZEK, MICHAEL</div> <div>ART UNIT 3625 PAPER NUMBER</div> <div>MAIL DATE 01/26/2009 DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/760,864

Applicant(s)

PARTAIN ET AL.

Examiner

Michael Misiaszek

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

The examiner for this application has changed. Please indicate Examiner Michael Misiaszek as the examiner of record in all future correspondences.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/2008 has been entered.

Response to Amendment

Applicant's amendments filed 10/22/2008 have been received and reviewed. The status of the claims is as follows:

Claims 45-50 are pending. Claims 25, 27-29 have been cancelled by the applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25, 27-29, and 45-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesaros (U.S. Patent No. 7,124,099) in view of Rubin (U.S. Patent No. 6,078,897).

Referring to claim 45, 46, 52, 58, 60

Mesaros teaches a method and system "for enhancing product sales in Internet transactions, the method comprising: delivering display information to a customer side for ordering products via the Internet" (Mesaros: column 7, lines 8-9 and figure 2), "receiving at a seller side an initial order entered at the customer side for a specified product and a specified quantity" (Mesaros: column 7, lines 8-9 and figure 2), "comparing the specified quantity of the initial order, placed by the customer side to the seller side, to a first predetermined quantity" (Mesaros: figure 4; where ranges of quantity are offered different prices. For example, between 101-200 is one range (where 101 is a first predetermined quantity and 200 is a second predetermined quantity).), "changing the display information to be delivered to the customer side in accordance with the specified quantity of the specified product" (Mesaros: figure 4), "wherein if the specified quantity of the specified product is within a first range that is lower than the first predetermined quantity but higher than a second predetermined quantity, display

information indicative of at least a first promotion, corresponding to a retail sales transaction, which is functionally related to the initial order is delivered to the customer side" (Mesaro: figures 4, 13 and 14; where ranges of quantity are offered different prices. For example, between 101-200 is one range (where 101 is a first predetermined quantity and 200 is a second predetermined quantity).), "if the specified quantity of the specified product is in a second range higher than the first range, display information indicative of at least a second promotion corresponding to a business to business transaction, that is different from the first promotion is delivered to the customer side" (Mesaro: figures 4, 13 and 14), and "if the specified quantity of the specified product is less than the second predetermined quantity, order processing information is delivered to the customer side for the initial order and no promotion information is delivered to the customer side" (Mesaro: figures 4, 13, and 14).

Mesaros further discloses a method wherein the display information indicative of a first promotion includes information regarding a difference between the initial order quantity and a quantity for qualifying for the first promotion (Mesaros: Fig. 4, "188" and "189"). Mesaros discloses wherein the first promotion includes providing without charge one or more products different from the specified product (Mesaros: figure 8). Mesaros further discloses a method wherein the customer side and seller side are at geographical remote locations (Mesaros: Fig. 1).

Mesaro fails to explicitly teach "and is contingent on a revision of the order to increase the specified quantity to said first predetermined quantity". Mesaros does not expressly disclose a method wherein a promotion is contingent on a revision of an initial order by a customer to make an additional purchase. Rubin discloses a method wherein a promotion is contingent on a revision of an initial order by a customer to make an additional purchase (Rubin: Abstract, "The user can add one or more additional orders to the proposed order, and then submit the new proposed order."). At the time of invention it would have been obvious to one of ordinary skill in the art to have modified the method of Mesaros to incorporate the promotion scheme of Rubin because of the complexity of some discount structures a consumer may not be aware at the time of an order that a moderately larger order can increase a discount available (Rubin: column 1, line 65 to column 2, line 17).

Mesaros also does not expressly disclose changing display information to be delivered to the customer said in accordance with the specified quantity of the specified product. Rubin teaches this (Rubin: column 4, lines 55-65). Rubin discloses a method wherein least expensive additional order calculator 232 divides the additional volume by the volume contribution of each product having a vendor equal to the vendor identified in the proposed order stored in proposed order storage 212. For each product, the result of this division is rounded up and the rounded result multiplied by the price of the product to produce an extended price. One or more of the minimum extended prices is selected and the corresponding product identifier, quantity and total price is provided by least expensive additional order calculator 232 to administration 250 for presentation to

the user. At the time of invention it would have been obvious to one of ordinary skill in the art to have modified the method of Mesaros to incorporate the promotion scheme of Rubin because of the complexity of some discount structures a consumer may not be aware at the time of an order that a moderately larger order can increase a discount available (Rubin: column 1, line 65 to column 2, line 17).

Mesaros further does not expressly disclose making a determination of the type of initial order, and treating the initial order based on the determination. Postelik teaches that it is known to determine the type of initial order, and treating the initial order based on the determination (at least paragraph [0090]) in a similar environment. It would have been obvious to have modified the system and method, as taught by Mesaros, with the determination, as taught by Postelik, since such a modification would only united elements of the prior art references, with no change in their respective functions and which yield predictable results.

Referring to claim 47, 49, and 59.

Mesaros and Rubin fail to explicitly teach "wherein if the customer side confirms the initial order without modifying the initial order, the seller side determines that the initial order does not qualify as a retail-customer-to-business transaction", "wherein if the customer side confirms the initial order without modifying the initial order, the seller side determines the transaction does not qualify as the business-to-business transaction", and "wherein said determination part determines that the initial order is a business to business transaction based on the identity of the customer". Examiner takes Official

Notice that it is old and well-known in the art to have these features. It would have been obvious, at the time of the invention, to one ordinary skill in the art to modify Mesaros to include features that describe the transactions and orders based on whether the customer confirms the order without revising or based on the identity of the customer, rendering the order as not a retail-customer-to-business transaction and the transaction not as a business-to-business transaction, in order to enhance customer relationship management.

Referring to claim 48,

Mesaros teaches "wherein when the specified quantity of the initial order is greater than said first predetermined quantity but less than said third predetermined quantity, the seller side calculates a quantity difference to qualify for the business to business transaction and promotion, and displays the quantity difference along with business-to-business transaction and promotion information at the customer side display, and provides the customer side with an option of modifying the order" (Mesaros: figures 4, 13, and 14. The feature of "modifying" is addressed by the rejections of claims 25 and 27-29; therefore the same rejections apply to this claim.).

Referring to claim 50,

Mesaros teaches "displaying at the customer side, information reflecting the revised order that conforms to the selected promotion, whereby the initial order is no longer operative at the seller side" and "executing the revised order at the seller side". Rubin,

in an analogous art, teaches "displaying at the customer side, information reflecting the revised order that conforms to the selected promotion, whereby the initial order is no longer operative at the seller side" (Rubin: abstract and figures 2-3) and "executing the revised order at the seller side" (Rubin: figure 3).

Referring to claim 53,

Mesaros fails to teach "wherein said customer side terminal displays no promotion information and execute the initial order as entered when said quantity range is determined to be below said first predetermined quantity".(Mesaros: column 7 lines 1-31; where an order can be placed without conforming to said pricing schemes).

Referring to claim 54,

Mesaros teaches "wherein said customer side terminal displays promotion information corresponding to a retail-customer-to-business transaction contingent on increasing the specified quantity of the initial order to at least a second predetermined quantity higher than said first predetermined quantity" (Mesaros: figures 4, 13, and 14).

Referring to claim 55,

Mesaros teaches "wherein said customer side terminal displays promotion and transaction information corresponding to a retail-customer-to-business transaction when the specified quantity of the initial order is lower than said third predetermined quantity

but higher than said first predetermined quantity (Mesaros: figure 4; where several pricing thresholds are disclosed).

Referring to claim 56,

Mesaros teaches "wherein said customer side terminal displays promotion and transaction information corresponding to a business-to-business transaction contingent on increasing the specified quantity of the initial order to a fourth predetermined quantity;" (Mesaros: figure 4; where several pricing thresholds are disclosed).

Referring to claim 57,

Mesaros teaches "wherein said customer side terminal displays promotion and transaction information corresponding to a business-to-business transaction when the specified quantity of the initial order is determined to be equal to or above said third predetermined quantity but below a fourth predetermined quantity" (Mesaros: figure 4; where several pricing thresholds are disclosed).

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiaszek whose telephone number is (571)272-6961. The examiner can normally be reached on 9:00 AM - 5:30 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art
Unit 3625

Michael A. Misiaszek
Patent Examiner
1/20/2009